

AMENDMENT UNDER 37 C.F.R. § 1.111
U.S. Application No.: 10-670,005
Attorney Docket No.: Q77667

REMARKS

The Office Action of September 27, 2005 has been received and its contents carefully considered.

Claims 1 to 20 are all the claims pending in the application, prior to the present amendment.

The Examiner states that claims 17-20 have been allowed, and that claims 2-9, 11 and 12 would be allowable if written in independent form.

Claims 1-20 have been rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 to 6, 9, 11, 13, 15 and 17-19 of the copending application No. 10/738,307. The Examiner states that she is maintaining the double patenting rejection since applicants have not submitted a Terminal Disclaimer.

Applicants respond to this rejection by stating that they will defer a response until the copending application matures into a patent.

Claims 1, 10 and 13-16 have been rejected under 35 U.S.C. § 102(a) as anticipated by the newly cited WO 2001/92437 document to Mizutani et al.

In addition, claims 1, 10 and 13-16 have been rejected under 35 U.S.C. § 102(b) as anticipated by JP 2000-355687 to Yanagi et al.

In response, applicants have amended claim 1 to incorporate the allowable subject matter of claim 2, have canceled claim 2, have amended claim 4 to change its dependency to claim 1, have made appropriate amendments to claims 10-14 and have cancelled claims 15 and 16.

Further, applicants have rewritten claim 3 as an independent claim.

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Still further, in Paragraph 8 of the Office Action, the Examiner sets forth a description of what she considers to be allowable subject matter. In particular, the Examiner states that a device containing a compound of formula (I) wherein R¹¹ is substituted, R¹² is substituted, Y¹¹, Y¹² and Y¹³ are each substituted carbon, M (M¹¹) is iridium, L (L¹¹) is 2-phenyl pyrrole, n¹¹ is 1, n¹² is 2 and n¹³ is 0 is considered to be allowable subject matter.

Accordingly, applicants have added new independent claim 21 based on the Examiner's description of allowable subject matter. Applicants note that new claim 21 states that L¹¹ is a 2 phenyl pyridine, as applicants believe that this is what the Examiner intended.

In view of the above, applicants submit that the claims that are now in the application are allowable over the cited prior art and accordingly, request withdrawal of these rejections.

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,


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